IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Inventorship .... Marcantonio et al.
Applicant .... Microsoft Corp.
Group Art Unit 2854
Examiner .... Ren Yan
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Title: Connected Clock Radio

To: The Honorable Commissioner for Patents
         Mail Stop Appeal Brief- Patents
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BRIEF OF APPELLANT

The Applicant has filed a timely Notice of Appeal from the action of the Examiner

in finally rejecting all of the claims that were considered in this application. This Brief is

being filed under the provisions of 37 C.F.R. § 1.192.

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REAL PARTY IN INTEREST

The real party in interest is Microsoft Corporation, by way of assignment from

Marcantonio et al, who is the named inventive entity and is captioned in the present brief.

RELATED APPEALS AND INTERFERENCES

None.

STATUS OF CLAIMS

Claims 1-27 are cancelled and claims 28-33 are pending and are the subject of this appeal.

STATUS OF AMENDMENTS

None.

SUMMARY OF THE CLAIMED SUBJECT MATTER

The following discussion is directed to a clock radio that is connectable to a remote device through a network. In the absence of a network connection, the clock radio can function as a conventional stand-alone clock radio device. A network connection permits the clock radio to communicate with a remote device such as a PC in order to leverage the computing power of, and various services accessible by, the remote device. *See Application, Paragraph [0008].*

A remote device is configurable to initiate contact with the clock radio at particular times and to send wakeup alarm instructions for sounding a wakeup alarm along with audio data to be used in sounding the wakeup alarm. The wakeup times can be specific times entered by a user through the remote device user interface, or they can be controlled by an application (e.g., calendar /appointment application, email application, etc.) as specified by a user through the remote device user interface. *See Application, Paragraph [0009].*

A remote device is also configurable to stream preconfigured audio data to the clock radio. Preconfigured audio data can be automatically played by the clock radio as post-alarm audio when a wakeup alarm is turned off. The clock radio includes controls that enable a user to step through audio files within a stream of preconfigured audio data and to access additional streams of preconfigured audio data from the remote device. The remote device enables a user to configure multiple user profiles which control wakeup times, alarm sounds and post-alarm audio data streams. *See Application, Paragraph [0010].*

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Advantages of the described clock radio include the ability to leverage powerful remote devices and existing network services to provide improved control over a local alarm for wakeup and other appointment notifications, and to provide a rich media experience through a relatively inexpensive and unintelligent clock radio device. *See Application, Paragraph [0011]*.

Independent Claim 28 recites a clock radio (e.g., reference number 102, FIG. 1; paragraph [0012]) comprising:

- an electronic time base to keep time (e.g., reference number 226, FIG. 2; paragraph [0023]);

- a display device to display the time (e.g., reference number 223, FIG. 2; paragraph [0023]);

- a control panel configured to receive local instructions, including local time set instructions and local alarm set instructions (e.g., reference number 210, FIG. 2; paragraph [0019]);

- a communication interface configured to receive remote instructions, including remote time set instructions, remote alarm set instructions, and a remote audio data stream from a network device, wherein the remote audio data stream includes an audio file playlist having a plurality of audio files specified by a user through interaction with an interface output by a remote computer that is configured to provide

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instructions to the network device to form the audio file playlist (e.g., reference number 218, FIG. 2; paragraph [0020]); and

- a control module configured to set the time, to set an alarm, and to render the remote audio data stream in accordance with the local instructions and the remote instructions (e.g., reference number 210, FIG 2; paragraph [0019]).

Dependent Claim 29 recites a clock radio as recited in claim 28, wherein the control panel comprises:

- a forward button configured to skip forward to a next audio file in the remote audio data stream (e.g., FIG. 2; paragraph [0025]);

- a back button configured to skip backward to a previous audio file in the remote audio data stream (e.g., FIG. 2; paragraph [0025]); and

- an audio source button configured to skip between a plurality of audio data sources available from the network device (e.g., FIG. 2; paragraph [0025]).

Dependent Claim 30 recites a clock radio as recited in claim 29, wherein the control panel further comprises:

- a snooze button to turn off the alarm temporarily (e.g., FIG. 2; paragraph [0025]);

- a stop/resume button to alternately stop and resume a local function (e.g., FIG. 2; paragraph [0025]);

- a local function button to alternately set the clock radio to different local functions (e.g., FIG. 2; paragraph [0025]); and

- a volume button to set a volume level for the clock radio (e.g., FIG. 2; paragraph [0025]).

Dependent Claim 31 recites a clock radio as recited in claim 30, wherein the local functions are selected from the group comprising:

- a time set function (e.g., FIG. 6; paragraph [0029]);

- an alarm set function (e.g., FIG. 6; paragraph [0029]);

- an AM radio station function (e.g., FIG. 6; paragraph [0029]);

- an FM radio station function (e.g., FIG. 6; paragraph [0029]); and

- an audio source function (e.g., FIG. 6; paragraph [0029]).

Dependent Claim 32 recites a clock radio as recited in claim 28, wherein the remote audio data stream comprises a preconfigured playlist of audio files (e.g., FIG. 3, paragraph [0026]).

Dependent Claim 33 recites a clock radio as recited in claim 32, wherein the audio files are selected from the group comprising:

- an appointment audio file representing text-based calendar appointment information translated by a text-to-speech engine (e.g., reference number 234, FIG. 2; paragraph [0032]);

- an email audio file representing a text-based email translated by a text-to-speech engine (e.g., reference number 234, FIG. 2; paragraph [0032]);

- a news audio file representing a text-based news story translated by a text-to-speech engine (e.g., reference number 234, FIG. 2; paragraph [0032]);

- a weather audio file representing a text-based weather report translated by a text-to-speech engine (e.g., reference number 234, FIG. 2; paragraph [0048]);

- a business audio file representing a text-based business story translated by a text-to-speech engine;

- a sports audio file representing a text-based sports story translated by a text-to-speech engine;

- a traffic audio file representing a text-based traffic report translated by a text-to-speech engine (e.g., reference number 234, FIG. 2; paragraph [0044]); and

- a personal music file from a collection of music files (e.g., abstract).

GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

1.   Claims 28, 32 and 33 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,791,904 to Herron et al. (hereinafter "Herron") in view of U.S. Patent Publication No. 2004/0024688 to Bi et al (hereinafter "Bi").

2.   Claims 29-31 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Herron Bi and further in view of U.S. Printed Publication No. 2005/00113946 to Janik et al (hereinafter "Janik").

ARGUMENT

First Ground of Rejection   Claims 28, 32 and 33 satisfy the requirements of 35 U.S.C. §

103(a) and therefore are patentable over Herron in view of Bi.

References

Herron is drawn to a method and apparatus to receive selected audio content.

The audio playback system includes an audio content server and a device. The audio

content server includes audio content to be selected for playback. The device calls the

audio content server to request and receive an audio playback of selected audio

content at a scheduled time. *See Abstract.* However, in each instance in Herron,

control of the device, including selection of the audio content to be played on the

device, is performed locally at the device and is not performed remotely. For

example, Herron describes the following to select content to be played by the Herron

device:

> At block 236, the clock-radio device 152 automatically places a
> new phone call to the audio content server 140, then control
> passes to block 238. The audio content server 140 is the conduit
> from which selected audio content is provided to the clock-radio
> device 152 by an audio content service provider. In one
> embodiment, the subscriber selects audio content from the audio
> content server 140 via menu driven interactive voice
> instructions. For example, upon connecting to audio content
> server 140, the subscriber listens to a menu of options, such as,
> update personal information, update billing information, select
> audio content, set clock-radio settings, among other examples to
> be described below. Here, the subscriber may choose to update

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the selected audio content. Then, a choice of audio content is presented for the subscriber to choose from. *See Herron, Col. 3, Line 59 to Col. 4, Line 6.*

The content of Herron, however, is selected by category, which is described in Herron as follows:

> At block 236, the clock-radio device 152 automatically places a new phone call to the audio content server 140, then control passes to block 238. The audio content server 140 is the conduit from which selected audio content is provided to the clock-radio device 152 by an audio content service provider. In one embodiment, the subscriber selects audio content from the audio content server 140 via menu driven interactive voice instructions. For example, upon connecting to audio content server 140, the subscriber listens to a menu of options, such as, update personal information, update billing information, select audio content, set clock-radio settings, among other examples to be described below. Here, the subscriber may choose to update the selected audio content. Then, a choice of audio content is presented for the subscriber to choose from. *See Herron, Col. 3, Line 59 to Col. 4, Line 6.*
>
> The audio content categories to be selected may be broad in scope, such as, political news, financial news, entertainment news etc., or may also be narrow in scope, such as, stock news of a specific company, sports news of a specific team, local traffic and weather, etc. In one embodiment, the subscriber provides commute information, such as street names of a commuter route, such that the subscriber may then receive an audio playback of the traffic conditions for that specific route. *See Herron, Col. 4, Lines 7-15.*

Thus, Herron discloses the selection of categories but not particular items that is performed at a device for the device.

Bi describes a digital content distribution and subscription system. The system may optionally provide streaming digital data as well as locally-stored digital files. In one exemplary implementation, subscribers may subscribe to a predetermined number of songs slots for a period of time, for example, about 200-400 song slots per month. The subscriber may then select songs from various playlists which causes encrypted digital audio files for the selected music to be downloaded to the subscriber's PC.

Although Bi describes that the "server manages the number client access devices, such as personal computers (PC), which can access the digital content over a predetermined time period" Bi does not teach or suggest user interaction with a remote computer to form an audio file playlist that is streamed to another device, such as a clock radio.

Claims

Claim 28 recites a clock radio comprising:

- an electronic time base to keep time;
- a display device to display the time;
- a control panel configured to receive local instructions, including local time set instructions and local alarm set instructions;
- a communication interface configured to receive remote instructions, including remote time set instructions, remote alarm set instructions, and a remote audio data stream from a network device, wherein the remote audio data stream includes an audio file playlist having a plurality of audio files specified by a user through interaction with an interface output by a remote computer that is configured to provide instructions to the network device to form the audio file playlist; and

- a control module configured to set the time, to set an alarm, and to render the remote audio data stream in accordance with the local instructions and the remote instructions.

It is respectfully submitted that the asserted references, alone or in combination, do not teach or suggest these aspects.

The Examiner correctly asserts that "Herron does not teach wherein the remote audio data stream includes an audio file playlist having a plurality of audio files specified by a user through interaction with an interface output by a remote computer that is configured to provide instructions to the network device to form the audio file playlist." *See Office Action, Page 3.* To correct this defect, the Office asserts the following portions of Bi:

> [0006] In order to provide users more capability to select music over the Internet, a number of websites have been developed which provide users the capability to select among various stored digital music files. One example of such a website is the Napster website. The Napster website allowed users to download digital music files from other users that were logged onto the Napster website at the time the request is made. The Napster website did not locally store digital audio files, but merely allowed searches of other user's computers logged onto Napster which matched the requested song. Unfortunately, the quality of the digital audio files varied. Also, digital audio files were only available when other users are logged onto the Napster website. In addition, the Napster model was adjudged to involve illegal copying of copyrighted music works. Thus, there is a need to provide a system for providing digital audio files with a consistent quality without violating copyright laws. *See Bi, Paragraph [0006].*
>
> [0007] The present invention relates to a digital content distribution and subscription system for digital data files, such

as digital audio and video data files, which provides subscribers, for example, with music or video from locally-stored digital files or on demand for a fee. The system may optionally provide streaming digital data as well as locally-stored digital files. After registration onto the system, a subscriber may select from a relatively wide variety of available digital content, for example, music content ripped from a high-quality digital source to provide relatively consistent digital quality to subscribers. In one exemplary implementation, subscribers may subscribe to a predetermined number of songs slots for a period of time, for example, about 200-400 song slots per month. The subscriber may then select songs from various playlists which causes encrypted digital audio files for the selected music to be downloaded to the subscribers's [sic] PC. A license key is downloaded to the subscribers' PC to "unlock" the selected songs to enable them to be decoded and played on the subscriber's personal computer or remote audio equipment for a predetermined time period. At the expiration of the predetermined time period, the license key expires, thereby preventing further playback of the encrypted audio data files. The selections of each subscriber are tabulated for the purpose of royality [sic] tracking and payment of an appropriate license fee to the holders of copyright rights for the selections. The system may also be used to provide additional digital information, such as special events which may be live or pre-recorded. The digital content distribution and subscription system includes a digital content management system, a system for token-based authentication allowing secure data retrieval and a royality [sic] administration system. *See Bi, Paragraph [0007].*

As shown in the above referenced portions, however, the subscriber interacts **with a PC** to cause selected songs to be downloaded **to that PC**. *See Bi, Paragraph [0007].* This reading is supported throughout the figures and drawings of Bi. *See Bi, FIGS. 3, 4 and 6, Paragraphs [0076]-0077].* Therefore, neither Herron nor Bi, alone or in combination, teach or suggest an audio file playlist having a plurality of audio files

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specified by a user through interaction with an interface output by a remote computer that is configured to provide instructions to the network device to form the audio file playlist.

Accordingly, it is respectfully submitted that a *prima facie* case of obviousness has not been established and the Applicant respectfully requests that the Board overturn this ground of rejection.

Second Ground of Rejection   Claims 29-31 satisfy the requirements of 35 U.S.C. §

103(a) and therefore are patentable over Herron in view of Bi and further in view of Janik.

As previously described in relation to the First Ground of Rejection, neither

Herron nor Bi teach or suggest "an audio file playlist having a plurality of audio files

specified by a user through interaction with an interface output by a remote computer

that is configured to provide instructions to the network device to form the audio file

playlist" as described in Claim 28. Janik does not correct this defect. Further, Claims

29-33 depend either directly or indirectly from Claim 28 and are allowable as

depending from an allowable base claim. Each of the dependent claims is allowable

based on the same rationale discussed with respect to Claim 28. These claims are also

allowable for their own recited features which, in combination with those recited in

claim 28, are neither shown nor suggested in the references of record, either singly or

in combination with one another.

CONCLUSION

The Applicant respectfully considers this application to be in condition for allowance and respectfully requests the Board to overturn the final rejection and that the Examiner pass this application to allowance.

Dated this 10th of August, 2007.

Respectfully submitted,

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APPENDIX: CLAIMS ON APPEAL

28. (previously presented): A clock radio comprising:

an electronic time base to keep time;

a display device to display the time;

a control panel configured to receive local instructions, including local time set instructions and local alarm set instructions;

a communication interface configured to receive remote instructions, including remote time set instructions, remote alarm set instructions, and a remote audio data stream from a network device, wherein the remote audio data stream includes an audio file playlist having a plurality of audio files specified by a user through interaction with an interface output by a remote computer that is configured to provide instructions to the network device to form the audio file playlist; and

a control module configured to set the time, to set an alarm, and to render the remote audio data stream in accordance with the local instructions and the remote instructions.

29. (original): A clock radio as recited in claim 28, wherein the control panel comprises:

a forward button configured to skip forward to a next audio file in the remote audio data stream;

a back button configured to skip backward to a previous audio file in the remote audio data stream; and

an audio source button configured to skip between a plurality of audio data sources available from the network device.

30.   (original): A clock radio as recited in claim 29, wherein the control panel further comprises:

a snooze button to turn off the alarm temporarily;

a stop/resume button to alternately stop and resume a local function;

a local function button to alternately set the clock radio to different local functions; and

a volume button to set a volume level for the clock radio.

31.   (original): A clock radio as recited in claim 30, wherein the local functions are selected from the group comprising:

a time set function;

an alarm set function;

an AM radio station function;

an FM radio station function; and

an audio source function.

32. (original): A clock radio as recited in claim 28, wherein the remote audio data stream comprises a preconfigured playlist of audio files.

33. (original): A clock radio as recited in claim 32, wherein the audio files are selected from the group comprising:

an appointment audio file representing text-based calendar appointment information translated by a text-to-speech engine;

an email audio file representing a text-based email translated by a text-to-speech engine;

a news audio file representing a text-based news story translated by a text-to-speech engine;

a weather audio file representing a text-based weather report translated by a text-to-speech engine;

a business audio file representing a text-based business story translated by a text-to-speech engine;

a sports audio file representing a text-based sports story translated by a text-to-speech engine;

a traffic audio file representing a text-based traffic report translated by a text-to-speech engine; and

a personal music file from a collection of music files.

APPENDIX: EVIDENCE

None.

APPENDIX: RELATED PROCEEDINGS

None.